IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.502 OF 2003

Prakash Cotton Mills Pvt. Ltd. ... Petitioners.

vs.

Union of India and others. .... Respondents.

Mr.Uday Bobde i/b. Pallavi Kadam, for Petitioners.

Mr.Sureshkumar with R.C.Master, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 18th July,2005

P.C.:-

1. By this petition, the petitioners challenge the Award made by the Sole Arbitrator. The case of the petitioners is that initially one P.S.Kaicker was appointed as the Arbitrator. By order dated 9.9.1982, he resigned. According to the petitioners, without notice to the petitioners, the respondents appointed Mr.Brijendra Singh Meena as sole Arbitrator and the said Arbitrator has passed the Award without serving any notice of the proceedings on the petitioners. In that Award, the Arbitrator has stated that he had sent the notice

of the arbitration proceedings to the petitioners on its last known address and the packet did not come back undelivered to the Arbitrator, and therefore, he presumed that the petitioners have been served and proceeded with the matter and made the Award. The petitioners have made categorical statement in the petition that they have not received any notice from the Arbitrator and they were not aware of the arbitration proceedings. The statement has been made on oath in the petition. The respondents though served has not filed any affidavit controverting that averment. In the absence of denial, the averment has to be accepted at face value and therefore, the Award made by the learned Arbitrator without effecting valid service of the notice of the arbitration proceedings on the petitioners, is liable to be set aside. In the result therefore, the petition succeeds and is allowed. The Award impugned in the petition is set aside. There shall be no order as to costs.